

ENTERED

August 21, 2017

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

TONY PEEBLES,

Plaintiff,

v.

NANCY BERRYHILL, Acting
Commissioner of the Social Security
Administration,

Defendant.

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CIVIL ACTION NO. H-16-2550

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION, DENYING THE
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, GRANTING THE
PLAINTIFF'S MOTION, AND REMANDING**

This court has reviewed the United States Magistrate Judge's Memorandum and Recommendation on the defendant's motion for summary judgment signed on August 3, 2017, and made a *de novo* determination. Rule 72(b), Fed. R. Civ. P.; 28 U.S.C. § 636(b)(1)(C); *United States v. Wilson*, 864 F.2d 1219 (5th Cir. 1989). Based on the pleadings, the record, and the applicable law, the court adopts the Memorandum and Recommendation as this court's Memorandum and Order. This court finds and concludes that the Administrative Law Judge's decision denying social security benefits was not supported by substantial evidence in the record, because the ALJ improperly found that the plaintiff's driving skills are a transferable skill; failed to consider what vocational adjustment, if any, was necessary to work as a "delivery car rental driver," and failed to obtain medical evidence as to whether the plaintiff's diabetes can be controlled without insulin. The plaintiff's motion for summary judgment, Docket Entry No. 14, is granted; the Commissioner's motion for summary judgment, Docket Entry No. 16, is denied. This matter is remanded under sentence four of 42 U.S.C. § 405(g), with instructions to the Administrative Law Judge to further develop the record consistent with this order.

An order of dismissal is separately entered.

SIGNED on August 18, 2017, at Houston, Texas.

A handwritten signature in black ink, appearing to read "Lee H. Rosenthal", written over a horizontal line.

Lee H. Rosenthal
United States District Judge